IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

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WRIT PETITION NO : 19606 of 1994

Between:

B.Krishnam Raju, S/o. Janakirama Raju,
R/o. Bhimavaram , West Godavari District.

..... PETITIONER

AND

1 Dist Collector and Magistrate, Machilipatnam,
Krishna Dist.
2 Mandal Revenue Officer, Kaikaluru,
Krishna Dist.
3 A.P. Small Scale Industries Development Corporation Ltd.,

rep .by General Manager at Parisrama Bhavan,
Bashirbagh, Hyderabad.
4 M/s. Marthon Chemicals Pvt. Ltd, Patancheru ,
Hyderabad.

(Case against R4 dismissed for default vide court order dt.8.12.99)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Mandamus declaring that the action of the respondents in invoking the provisions of the Revenue of the respondents in invoking the provisions of the Revenue Recovery Act against the petitioners in respect of the loan advanced to the 4th respondent, is arbitrary and illegal and direct the respondents not to proceed further in the matter against the petitioner and grant such other relief as it deems fit

and proper in the circumstances of the case.

Counsel for the Petitioner: Mr. V.VENKATARAMANA

Counsel for the Respondents1 to 2: GP FOR REVENUE

Counsel for the Respondent No.3: The Standing counsel for APSSIDCL.

The Court made the following ORDER :

The present writ petition has been preferred by the petitioner seeking for a direction in the nature of writ of mandamus to declare that the action of the respondents in invoking the provisions of the A.P. Revenue Recovery Act (for short 'the Act') against the petitioner in respect of the loan advanced to the 4th respondent, is arbitrary and illegal and to direct the respondents not to proceed further in the matter against the petitioner.

2. The case of the petitioner is that the 4th respondent company was incorporated under the Companies Act as a private limited company and it has obtained a quasi equity loan of Rs.1.69 lakhs. At that time, the petitioner being a Managing Director of the said company has recommended to the 3rd respondent corporation for sanction of the loan amount. Subsequently, the 4th respondent-company became sick, as a result of which it has committed default in payment of the loan amount to the 3rd respondent. It is his further case that his position in the 4th respondent-company was more like an employee and that after the 4th respondent-company becoming sick, he left the company and presently, he is working as General Manager of Messrs.Siris Agro Ltd. at Allapadu. While so, the 3rd respondent Corporation filed a suit in O.S.No.1580 of 1989 against the petitioner without impleading the 4th respondent-company seeking recovery of the above said loan amount. The said suit was decreed *ex parte*, for which he also filed a petition under Order 9 Rule 13 C.P.C. and the same is pending in the Court of the 1st Additional Judge, City Civil Court, Hyderabad. On the letter addressed by the 3rd respondent to the 1st respondent requesting to invoke the provisions of the Act to recover the alleged loan amount of Rs.2,39,599/- from him, the respondents are now trying to initiate proceedings under the said Act.

3. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

4. I have perused the letter dated 19.10.1994. As could be seen from it, it is a letter addressed by the 3rd respondent to the District Collector, Machilipatnam requesting to initiate necessary action to recover the loan amount to a tune of Rs.2,39,599/- from the petitioner. A copy of the letter was also marked to the petitioner. On the said letter, it is the apprehension of the petitioner that the respondents may invoke provisions under the Act at any point of time. As a matter of fact, the suit in O.S.No.1580 of 1989 filed for recovery of the loan amount from the petitioner was decreed *ex parte*. In this context, it is contention of the learned counsel for the petitioner that the petitioner has already filed a petition under Order 9 Rule 13 C.P.C. to set aside the *ex parte* decree. But, no material is placed before this Court to show that the said *ex parte* decree is set aside or not.

5. Under the above circumstances, I am of the view that since it is only a letter addressed to the 1st respondent-Collector requesting to take necessary action to recover the amount from the petitioner and since no action has yet been initiated by the 1st respondent-Collector to invoke the provisions under the Act, the writ petition needs no interference as it is premature.

6. Accordingly, the writ petition is dismissed. No order as to costs.

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(T.MEENA KUMARI, J)

2nd September, 2004.

tsy/va

To

1. The Dist Collector and Magistrate,

Machilipatnam,
Krishna District.

2. The Mandal Revenue Officer,

Kaikaluru,
Krishna District.

3. The General Manager,

A.P. Small Scale Industries Development Corporation Ltd.,

Parisrama Bhavan,

Bashirbagh, Hyderabad.

4. Two CCs to the GP for Revenue, High Court Buildings,

Hyderabad (O.U.T.)

5. Two CD Copies.